

REMARKS

Claims 1-19 and 59 are pending in the application. Claim 1-19 and 59 stand rejected. Claims 20-58 have been cancel from the application as being drawn to a non-elected invention.

Obviousness-type double patenting

Applicants again acknowledge the provisional rejection of claims 1-19 and 59 as being unpatentable over claims 18-34 of copending application number 10/855,723, but request that the rejection be held in abeyance until there is an indication of allowable subject matter.

Rejections under 35 U.S.C. § 103(a)

Claims 1-19 and 59 were rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Pruett et al. U.S. 4,617,374 (Pruett '374), Pruett et al. U.S. 5,459,224 (Pruett '224), Carman et al. U.S. 6,001,952 (Carman '952), or Weaver et al. U.S. 6,787,589, in view of Trojan (US 5,898,059), and further in view of Fujimori et al. (U.S. 6,703,474). Applicants respectfully traverse this rejection and request reconsideration, there being no motivation in the references or in the art generally to combine the references in the way in which they have been combined.

Applicants note that each of the cited primary references discloses or suggests a polyester polymer containing a UV absorber made using a titanium catalyst.

For example, the Pruett '374 patent, in Examples 53 and 54, discloses the use of acetyl triisopropyl titanate in a polymerization process in which a UV-absorbing compound such as that used in the present application is incorporated, there being no mention that other catalysts could or might be used when incorporating such a UV absorber. Similarly, the Pruett '224 patent, at column 9, line 2, describes as a preferred catalyst system the use of Mn/Ti/Co/P, which is the only catalyst system disclosed or

exemplified. Likewise, the Carman '952 patent, at col. 5, lines 54-57 suggests the use of titanium catalysts. Further, Weaver et al. also use titanium catalysts in each of the examples in which polymerizations are conducted.

Applicants further submit that neither of the cited secondary references would lead those skilled in the art any closer to the claimed invention, because they do not relate to the use of the UV absorbers of the present invention, nor do they suggest that the catalysts and processes described may be used with the UV absorbers of the present invention.

Trojan describes, in col. 4, lines 9-14, a catalyst system comprising zinc, antimony, and phosphorous; however, there is no suggestion, either in the primary references or in Trojan, that would have led one of ordinary skill in the art to combine the references and thus substitute the Applicants' catalyst system for the conventional titanium catalyzed process to promote the condensation of functionalized UV absorbers into polyesters, as exemplified in the primary references.

Additionally, Fujimori et al. explain, in col. 8, lines 47-52, that the polyesters described preferably contain "at least one metal element component selected from the group consisting of Groups IA and IIA of the periodic table, zinc, aluminum, gallium, germanium, titanium, zirconium, hafnium, manganese, iron and cobalt." Similarly, in column 11, lines 36-44, they explain that the polyester resins described are produced "in the presence of at least antimony compound and a phosphorus compound, preferably in the coexistence of the above mentioned metal compound, particularly the magnesium compound and/or the titanium compound." Each of the cited passages likewise suggests the use of titanium catalysts. In fact, Fujimori et al., in column 9, lines 34-35, suggests that the use of titanium is preferred. Fujimori et al. thus teaches away from the present invention in which titanium catalyst is avoided.

In light of the foregoing, Applicants respectfully submit that the references have been improperly combined, and the only motivation to combine the references in the way in which they have been combined is to be found in the present application, using

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impermissible hindsight. Applicants therefore respectfully submit that the rejection is overcome, and request that it be withdrawn.

Respectfully submitted,



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